

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BEVERLY HILLS UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2015040979

ORDER GRANTING MOTION TO  
WITHDRAW EXPEDITED ISSUES  
FROM COMPLAINT AND VACATING  
EXPEDITED HEARING DATES

On April 20, 2015, Student filed a complaint against Beverly Hills Unified School District. Allegation B of the complaint alleged that District denied Student a free appropriate public education by instituting a disciplinary removal before conducting a manifestation determination, even though District had a basis of knowledge that Student was a child with a disability. On April 27, 2015, the Office of Administrative Hearings issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation. The Scheduling Order set this matter for an expedited hearing to begin on May 19, 2015, and a non-expedited hearing to begin on June 16, 2015

On April 29, 2015, the parties filed a joint motion to unexpedite this matter and vacate the expedited dates, arguing that the complaint had not raised any issues subject to an expedited hearing. OAH determined that Allegation B was subject to the expedited hearing procedure of title 20 United States Code section 1415(k). Therefore, the motion was denied.

On May 11, 2015, Student filed a Motion to Withdraw the Expedited Issue (Allegation B) Without Prejudice, a Notice of Errata Re: Motion to Withdraw Expedited Issue and Request to Vacate All Expedited Hearing Dates, and a Corrected Motion to Withdraw Expedited Issue. The District did not oppose Student's Motion to Withdraw Expedited Issues.

APPLICABLE LAW

A parent of a child with a disability who disagrees with any decision by a school district regarding a change in educational placement of the child based upon a violation of a code of student conduct, or who disagrees with a manifestation determination made by the district, may request and is entitled to receive an expedited due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) (2006).) An expedited due process hearing before OAH must occur within 20 school days of the date the complaint requesting the hearing is filed. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2) (2006).) The procedural right

to an expedited due process hearing is mandatory and does not authorize OAH to make exceptions or grant continuances of expedited matters. (*Ibid.*) In sum, a matter can only be unexpedited or continued if no issue is alleged that is subject to an expedited hearing, or if the student withdraws the issues in the complaint that triggered the expedited hearing.

## DISCUSSION

Here, Student has affirmatively stated that the expedited issues that are subject to an expedited due process hearing have been withdrawn from the complaint, specifically, Allegation B. Accordingly, the expedited hearing dates will be vacated and Allegation B is considered stricken from the complaint. All date unrelated to the expedited hearing remain on calendar.

DATE: May 13, 2015

/s/

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TED MANN

Administrative Law Judge

Office of Administrative Hearings